

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

WAYNE VAN SCOY,)
)
Plaintiff and)
Counterclaim-Defendant,)
)
v.)
)
VAN SCOY DIAMOND MINE OF)
DELAWARE, INC., a Delaware corporation,)
KURT VAN SCOY, and DONNA VAN SCOY,)
)
Defendants and)
Counterclaim-Plaintiffs.)

Case No. 05-108 (KAJ)

**MOTION OF DEFENDANTS VAN SCOY
DIAMOND MINE OF DELAWARE, INC., KURT VAN SCOY
AND DONNA VAN SCOY, FOR SUMMARY JUDGMENT**

Defendants Van Scoy Diamond Mine of Delaware, Inc., Kurt Van Scoy and Donna Van Scoy (collectively, "Defendants"), through their undersigned counsel, hereby move this Court for an order, pursuant to Fed.R.Civ.P. 56(b), granting Summary Judgment in favor of Defendants and against Plaintiff Wayne Van Scoy, on the basis at Plaintiff waited too long to institute this suit and that therefore his claims are barred by the doctrine of Laches. Alternatively, Defendants Kurt Van Scoy and Donna Van Scoy seek summary judgment in their favor on the basis that they have no personal liability and Plaintiff Wayne Van Scoy cannot prove, as a matter of law, that they are personally liable for the alleged acts of the defendant corporation Van Scoy Diamond Mine of Delaware, Inc. Finally, Defendants alternatively seek partial summary judgment limiting Plaintiff's potential recovery for damages pursuant to the applicable statute of limitations.

In support of this motion, Defendants rely upon, and incorporate by reference, their supporting Memorandum of Law, being filed herewith. This motion is being filed under seal as certain information contained in the supporting Memorandum of Law has been designated as "Confidential" pursuant to the Stipulated Protective Order entered on September 27, 2005. (D.I. 84)

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